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IN THE
COURT OF APPEALS OF INDIANA

JERRY L. DEBACHER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A05-0605-CR-279
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Frances C. Gull, Judge
Cause No. 02D04-0512-FB-174

March 6, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Jerry L. Debacher appeals his conviction for arson as a class B felony.[1]

We affirm.

ISSUE

Whether there is sufficient evidence to support the conviction.

FACTS

On the evening of November 17, 2005, Jovan Crosby was at home, where he lived with his mother, Barbara Hinds, and brother, Tyson, when one of the exterior walls of the house caught on fire. Engine companies from the Fort Wayne Fire Department were dispatched to the residence and extinguished the fire.

When Captain Marc Schroeder, a fire investigator with the Fort Wayne Fire Department, arrived at the scene, he observed that "[t]he fire was contained to the rear of the structure. It had burned up the side of the building and broke the window." (Tr. 96). Captain Schroeder did not find a "natural ignition source" or "accidental causes . . . ." (Tr. 96, 97). Captain Schroeder found "the remains of the recycle bin," a "burnt tire," and "general trash and debris," which "was behind the house and that was what had burned." (Tr. 96). The fire then "burned up and out from there," burning the house's siding. (Tr. 98).

Approximately a week or two after the fire, Betty Rucker heard some neighbors "joking around" about Debacher starting the fire at the Hinds' residence. (Tr. 76).

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[1] Ind. Code § 35-43-1-1.

Rucker asked Debacher whether he had set the fire, and Debacher admitted that he had set the fire because he was "crazy about" Shaquanda Green and "Tyson had kicked [Green] in the stomach[.]" (Tr. 77).

On December 8, 2005, Captain Schroeder requested an interview with Debacher. Detective Matthew Lewis advised Debacher of his Miranda rights, and Debacher signed a waiver-of-rights form. During Captain Schroeder's interview with Debacher, Debacher admitted that "[he] and Shaquanda Green went to the house . . . with a bottle of lighter fluid. They poured the lighter fluid on the debris in the backyard and ignited it with a purple lighter." (Tr. 103). Debacher admitted to Captain Schroeder that he had the purple lighter. Debacher then wrote the following statement: "On October[2] 17th me and Shaqunda [sic] Green planned to light a house on fire. So we went to the house and I took the bottale [sic] and poured it into the trash can and it slowly caught on fire[.] [T]hen we ran[.]" (State's Ex. 5).

The State charged Debacher with arson on December 14, 2005. The trial court held a jury trial on April 4, 2006. During the trial, Debacher testified that he never discussed the fire with Rucker. Debacher also testified that he only told Captain Schroeder that he had set the fire because Captain Schroeder "told [him] that if [he] would just admit to it they would let [him] go and it would be a misdemeanor." (Tr. 124). Debacher testified that "[he] just wanted to get out so [he] said [he] did it and [he]

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[2] Debacher incorrectly identified the month of the fire as October rather than November. Captain Schroeder testified that the only fire he discussed with Debacher was the one that occurred on November 17, 2005.

signed . . . a statement . . . ." (Tr. 124). The jury found Debacher guilty as charged, and the trial court sentenced him to twelve years.

DECISION

Debacher asserts that the evidence was insufficient to sustain his conviction for arson because "[h]e was convicted solely on his statements to Betty Rucker and his verbal and written statements to Captain Schroeder," which contradicted Debacher's testimony at trial. Debacher's Br. 3.

Our standard of review for sufficiency of the evidence is well settled. We will neither reweigh the evidence nor judge the credibility of witnesses. *Snyder v. State*, 655 N.E.2d 1238, 1240 (Ind. Ct. App. 1995). We examine only the evidence most favorable to the judgment along with all reasonable inferences to be drawn therefrom, and, if there is substantial evidence of probative value to support the conviction, it will not be set aside. *Id*.

Rucker testified at trial that Debacher admitted to her that he had set the fire at the Hinds' residence. Captain Schroeder also testified that Debacher admitted to setting the fire, and the State offered into evidence Debacher's written statement. Debacher, however, denied admitting to Rucker that he had set the fire and claimed that the statements given to Captain Schroeder were false. Debacher further testified that he only knew that the fire had started in a trash can because Captain Schroeder "told [him] that all that caught on fire was a trash can and nothing else." (Tr. 128). Captain Schroeder, however, testified that he did not give Debacher's any specific facts about the fire, and in

earlier testimony, Debacher testified that investigators did not tell him anything about the fire other than "a house was caught on fire . . . ." (Tr. 124).

Clearly, Debacher's testimony conflicted with testimony of Rucker and Captain Schroeder. Debacher also presented conflicting testimony. Where contradictory or inconsistent testimony is presented at trial, it is up to the trier of fact to resolve such conflicting testimony. *Brown v. State*, 830 N.E.2d 956, 968 (Ind. Ct. App. 2005). Here, the jury chose to believe the testimony of Rucker and Captain Schroeder. Thus, we conclude that the evidence was sufficient to sustain Debacher's conviction.

Affirmed.

BAKER, J., and ROBB, J., concur.